

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

DEC 7 1999

DOCKET FILE COPY ORIGINAL
CREDIT & DEBIT MANAGEMENT
CENTER, OMD

OFFICE OF
MANAGING DIRECTOR

46-285

Mr. Barry D. Wood
Wood, Maines and Brown
Attorneys at Law
1827 Jefferson Place, N.W.
Washington, DC 20036

Re: WGTW-TV, Regulatory Fees, Fee Case No's:
000000BCB-98-057; BCB000000 BCB-96-001,
BCB96REG03, 000BCBHRD-94-023

Dear Mr. Wood:

This responds to your correspondence on behalf of Brunson Communications, Inc., permittee of television broadcast station WGTW, Burlington, New Jersey (hereinafter Brunson or WGTW).

In summary, your letter raises three points. First, you acknowledge receipt of the Commission's July 16, 1998 request for payment of the regulatory fee (FY 94). Second, you assert the Commission either did not send you a copy of the decision on your petition for reconsideration filed on October 2, 1995, or no decision was reached. Finally, you claim that WGTW was the holder of a construction permit, and as such the regulatory fee should have been much less than \$14,400. For the reasons stated herein, I find that your request is untimely, but even if the merits were considered, nothing submitted provides either a basis for reconsideration or evidence of financial hardship.

As you know, the Commission dismissed Brunson's petition dated July 24, 1994 because Brunson did not submit any documentation of financial hardship which would warrant a waiver of the regulatory fees. Although the request for waiver had been dismissed, and payment of the regulatory fee of \$14,400 was due, Brunson was informed that it could request a waiver when the fee was paid, or request waiver and seek deferment.

On October 2, 1995 Brunson filed an undated Petition for Reconsideration and included a copy of its 1993 Statement of Income and Expense and a brief comment that the station operated at a competitive disadvantage. Even though the petition was untimely, it was considered but dismissed. I am enclosing a copy of the decision for your records. Brunson's submission failed to establish financial hardship during the period covered by the regulatory fee. The Commission noted in part:

The documents submitted establish that Brunson had a negative cash flow in 1993, that it has a substantial deficit in retained earnings, and that as a result its shareholders hold a negative interest in the licensee. However, we note that the documents cover only the first three months of operation during FY 1994, they do not establish Brunson's financial condition at the time payment was due, that Brunson's losses for 1993 were exceeded by its unitemized administrative expenses, that Brunson has not identified the financial distributions to its officers and shareholders, as well as salaries and other payouts to owners and officers which could be included in the category of administrative expenses. Moreover, more recent, relevant and complete data which would present a more accurate picture of Brunson's financial condition should now be available. Thus, Brunson has not yet established that it is entitled to a waiver of its regulatory fee obligations because of financial hardship and its petition must be dismissed.

The letter requested payment within 30 days, and permitted a further request for waiver and either a refund of the fee or deferral of the payment. The dismissal was a matter of public record at 11 FCC Rcd. 3683, Public Notice, *Fee Decisions Of The Managing Director Available To The Public*, DA 96-305 (Mar 26, 96).

The day before that public notice, on March 25, 1996, the Commission issued a bill and reminder that the request for waiver had been "denied/dismissed" and that the fee of \$14,400 was due within 30 days or a 25% penalty with interest would be assessed. Your subsequent reply removes any doubt whether you received that correspondence.

On April 25, 1996, a day after payment was due, you asserted that you had not received a decision on its request for reconsideration. On July 16, 1998, you were notified that payment had not been received; accordingly, a penalty was assessed and the new full amount (\$18,000) was due within 30 days.

On July 29, 1998, you wrote denying receipt of any action on the petition for reconsideration, and for the first time you asserted that WGTW "merely had a construction permit to operate," thus the fee should have been "substantially less than \$14,400."

Brunson's opportunity to seek reconsideration of the decision or review of the request for waiver lapsed before either of your replies dated April 25, 1996 or July 29, 1998.

In a timely manner and following procedures, Brunson could have responded to either or both dismissals or it could have applied the rules and procedures in 47 CFR Part 1 and sought reconsideration. Neither proper course was followed. Thus, the decision is final and no further proceeding is appropriate.

The chronology of this case demonstrates that Brunson's first time within which to request a waiver was 30 days from August 29, 1995 (the dismissal of the first request for waiver). Although Brunson's time expired on September 29, 1995, it filed a second request, captioned "Petition for Reconsideration" on October 2, 1995. The Commission considered the matter and issued a decision on February 12, 1996. This decision also permitted a "further request for a waiver [or] further deferral of the fee" if filed "within 30 days from the date of th[e] letter." That 30-day period expired on March 13, 1996. Even considering your assertion that the decision was not received, it was nonetheless final on the date of public notice, March 26, 1996. Moreover, you received a bill and demand letter dated March 25, 1996 that plainly stated the request for waiver had been dismissed.

Applying the times established in the Commission's procedures, Brunson had until March 13, 1996 in which to file a further request for waiver with appropriate supporting documentation and until April 25, 1996 to file a petition for reconsideration or an application for review (but not both) (47 CFR §1.104(b)).

Your assertion that you did not receive the decision is insufficient to rebut the presumption of receipt (see *In the Matter of James A. Kay, Jr.*, 13 FCC Rcd 6349 (Mar 10, 98), citing *Konst v. Florida East Coast Railway Co.*, 71 F3d 850 (11th Cir., 1996)). However, even if you did not receive a copy of the Commission's decision of February 12, 1996, the bill and demand letter as well as the public notice plainly established that the request was dismissed.

The letter filed on April 25, 1996 was addressed to the Chief, Billing and Collections Branch. It cannot reasonably be construed as a petition for reconsideration or an application for review to the Commission. Moreover, nothing suggests it should be construed as a request that the Commission extend additional time for Brunson to file a petition. Even examining the correspondence in the light of a petition for reconsideration to the Commission, it does not meet minimal procedural requirements of identifying with particularity how the decision of the Managing Director should be changed, or how the findings of fact or conclusions of law are believed to be erroneous (47 CFR §1.106(d)(1)-(2)). Finally, nothing submitted may be construed as evidence of financial hardship extending beyond December 31, 1993.

Your letter of July 29, 1998 renewed the assertion that Brunson had not received a decision on the October 2, 1995 Petition for Reconsideration. For the first time you assert in the alternative, if a fee is due, it should be limited to a lesser amount due from a construction permit holder. The opportunity to raise that issue for consideration lapsed years earlier. It should have been presented, if at all, when the original request for waiver was submitted.

As a matter of procedure, Brunson's requests for further review are untimely and fail to address the required elements to support the request. Moreover, as a matter of substance, the cash flow, expenditures, or financial situation specifically applicable to the period of FY 1994, October 1,

Mr. Barry D. Wood


4.

1993 to September 30, 1994 were never addressed. The financial information was general, it applied only to calendar year 1993, and it failed to distinguish what, if any, hardship existed for the television station. To the extent the correspondence may be construed as an application for review pursuant to 47 CFR §1.115, it is procedurally incomplete and untimely.

Any request for relief from the fee amount must be considered under the statute, 47 U.S.C. §159 and 47 C.F.R. §1.1166. The statute permits the Commission to "waive, reduce, or defer payment of a fee in any specific instance for good cause shown, where such action would promote the public interest." 47 U.S.C. 159(d). However, the authority to waive fees is narrowly defined (*See Conference Report, H.R. Rep. No. 453, 99th Cong., 1st Sess. 423*) applying the standard of whether an extraordinary or compelling reason has been demonstrated and would the waiver of the fee overrides the public interest to collect the fee. Your request does not meet that standard, thus to the extent it may be construed as a request for a waiver or refund of all or any portion of the fee, it is dismissed in its entirety.

The amount due, \$18,000 plus accrued interest is due and payable immediately.

Sincerely,


Mark Reger
Chief Financial Officer

Enclosure

000000 BCB-98-057

WOOD, MAINES & BROWN

CHARTERED
ATTORNEYS AT LAW
1827 JEFFERSON PLACE, N.W.
WASHINGTON, D.C. 20036

TELEPHONE - (202) 293-5333
FACSIMILE - (202) 293-9811

BARRY D. WOOD
RONALD D. MAINES
PAUL H. BROWN
HANS K. WILD

OF COUNSEL
MARK A. BRINTON
*Admitted in Virginia only

July 29, 1998

Ms. Claudette E. Pride
Billings & Collections Branch
Federal Communications Commission
1919 M Street, N.W., Room 452
Washington, D.C. 20554

Dear Ms. Pride:

This is in response to the letter dated July 16, 1998 which you signed on behalf of Regina Dorsey, Chief of the Billings & Collections Branch of the Federal Communications Commission. In that letter, you requested payment of the regulatory fee from our client, Brunson Communications, Inc., permittee of television broadcast station WGTW, Burlington, New Jersey, for the 1994 federal fiscal year.

This firm filed a request for waiver of the 1994 regulatory fee for station WGTW. By letter dated August 29, 1995, the FCC dismissed the waiver request. Nevertheless, in the dismissal letter the Commission noted that the permittee could file a supplemental request for waiver accompanied by documentation establishing the financial need of Brunson Communications, Inc.

On October 2, 1995, this firm filed a petition for reconsideration of the FCC's action of August 29, 1995. The permittee submitted, along with the petition, its latest financial statements as of the date the fee payment would have been due. That document conclusively demonstrated the permittee's financial hardship.

Nevertheless, on March 25, 1996, Ms. Dorsey sent the permittee a Bill for Collection with respect to the 1994 regulatory fee. In the Bill for Collection, Ms. Dorsey stated erroneously that the Commission had not received any additional information. In response to Ms. Dorsey's letter, this firm sent a letter to Ms. Dorsey on April 25, 1996 noting that Brunson Communications, Inc. had, in fact, submitted additional information in the form of a petition for reconsideration and supporting financial statements.

RECEIVED

Ms. Claudette E. Pride
July 29, 1998
Page 2

JUL 29 5 54 PM '98

FCC
FEE \$14,400

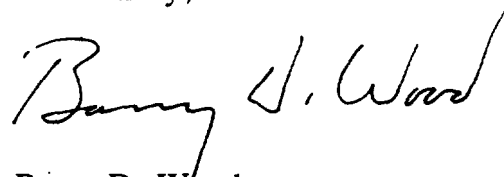
The records of our firm do not reflect that the Commission has taken any action on the petition for reconsideration. If the FCC has acted on the petition, we would appreciate a copy of the document reflecting such action. If the FCC has not acted on the reconsideration petition, we request that the Commission now consider the petition and grant it.

In your letter, you claim that the sum of \$14,400 is due from Brunson Communications for the 1994 regulatory fee. However, in 1994 Brunson Communications merely had a construction permit to operate WGTW. Even assuming that any fee should be assessed (which is not the case, based on Brunson's compelling waiver showings), the regulatory fee for the holder of a construction permit was substantially less than \$14,400.

Attached are copies of the documents referenced above. As before, these materials are being submitted to the agency contingent on a grant of confidentiality with respect to all financial information set forth therein pursuant to Section 0.459 of the Commission's Rules. The financial documents attached hereto contain sensitive proprietary information. The public release of this information would place WGTW at a competitive disadvantage and would subject the permittee to potentially embarrassing public attention.

If you have any questions regarding this letter, please call Hans Wild of this firm or the undersigned.

Yours truly,



Barry D. Wood
Counsel for Brunson
Communications, Inc.

BDW/cjl
Enclosures

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

JUL 16 1998

Brunson Communications
Barry D. Woods, Esquire
Jones, Waldo, Holbrook & McDonough, P.C.
2300 M Street, N.W.
Suite 900
Washington, DC 20037

REF: BCB96REG03

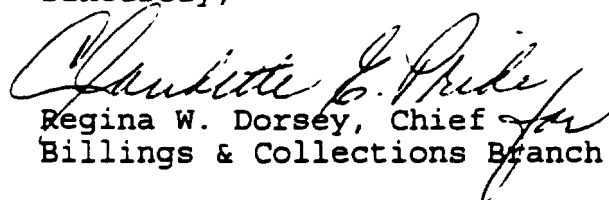
Dear Mr. Woods:

This is the second demand for payment. If payment is not made within 30 days of this letter, or in the alternative, proof of payment or documentation establishing that you are exempt from the regulatory fee requirement, any pending actions for this station will be dismissed, and any subsequent requests for Commission action may be subject to denial.

Payment of the \$14,400 1994 regulatory fee, and the 25% late payment penalty assessed under 47 C.F.R. § 1.1164, are now due. Payment in full of \$18,000 should be remitted with the enclosed Form 159 to the Federal Communications Commission, P.O. Box 358835, Pittsburgh, PA 15251-5835, pursuant to instructions on the Form 159. You should also review your records to ensure that payments are made for any auxiliary stations associated with the reference call sign, for any other calls signs assigned to you, or for any prior fiscal years for which payments are due.

You are advised that failure to pay the regulatory fees and penalties as described above may result in the imposition of further sanctions under 47 C.F.R. § 1.1164. If you have any questions concerning the fees, you may contact me at (202) 418-1995.

Sincerely,


Regina W. Dorsey, Chief
Billings & Collections Branch

Enclosure

STAMP &
RETURN

JONES, WALDO, HOLBROOK & McDONOUGH

A PROFESSIONAL CORPORATION

ATTORNEYS AND COUNSELORS

SUITE 900

2300 M STREET, N.W.

WASHINGTON, D.C. 20037-1436

(202) 296-5950

FACSIMILE (202) 293-2509

MAIN OFFICE
SALT LAKE CITY OFFICE

1500 FIRST INTERSTATE PLAZA
170 SOUTH MAIN STREET
POST OFFICE BOX 45444
SALT LAKE CITY, UTAH 84145-0444
TELEPHONE (801) 521-3200
FACSIMILE (801) 328-0537

ST. GEORGE OFFICE

THE TABERNACLE TOWER BLDG.
249 EAST TABERNACLE
ST. GEORGE, UTAH 84770-2978
TELEPHONE (801) 628-1627
FACSIMILE (801) 628-5225

April 25, 1996

RECEIVED
APR 25 1996
FEDERAL COMMUNICATIONS COMMISSION

Regina W. Dorsey, Chief
Billing & Collections Branch
Office of Managing Director
Federal Communications Commission
Washington, D.C. 20554

Dear Ms. Dorsey:

This is with respect to your letter of March 25, 1996 with respect to the regulatory fee for Station WGTW, Burlington, New Jersey. The letter is evidently based on an earlier decision, dated August 29, 1995, by Marilyn McDermott, Associate Managing Director for Operations.

Your letter indicates that the regulatory fee of \$14,400 was due within 30 days of notification of the decision, "unless additional information can be provided to substantiate [the] waiver request." Your letter further stated that, as of March 25, 1996, the Commission had "not received either the additional information or [the] regulatory fee payment."

In fact, Brunson Communications, Inc. did submit the further information requested, with a petition for reconsideration filed on October 2, 1995. A copy of the receipt-stamped duplicate of this pleading is attached hereto. The October 2, 1995 filing included a copy of the balance sheet and statement of operations and cash flows for the year ended December 31, 1993. It showed that WGTW was suffering tremendous financial hardship, far more than enough to justify exemption from the regulatory fee requirement.

If your files reflect that action has been taken on the reconsideration filing from last October, I would appreciate a copy of the document reflecting such action, as no such document appears in our files.

Regina W. Dorsey, Chief
April 25, 1996
Page 2

Unfortunately, information has come to our attention which renders resubmission of the balance sheet and income statements inadvisable. Attached hereto is a copy of material which was obtained in the last few days from the Commission's files with respect to Station WNTZ-TV, Natchez, Mississippi. This material includes a letter from counsel for WNTZ requesting that "the proprietary financial data included in this submission be kept confidential."

Notwithstanding that request, the information was readily made available to the public. Accordingly, it would seem that the Commission needs to establish procedures that would give licensees confidence in the enforcement of confidentiality before detailed financial information can be tendered to the Commission in this fashion.

Please advise as to the means by which the information in question can be submitted without risk of disclosure.

Yours truly,

A handwritten signature in cursive script, appearing to read "Barry D. Wood".

Barry D. Wood

BDW/cjl
Enclosure

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

March 25, 1996

OFFICE OF
MANAGING DIRECTOR

Brunson Communications
Barry D. Woods, Esquire
Jones, Waldo, Holbrook & McDonough, P.C.
2300 M Street, NW, Suite 900
Washington, D.C. 20037

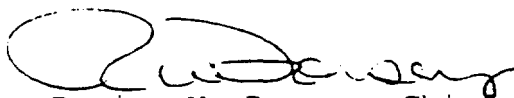
Dear Mr. Woods:

A review of our records indicate that your request for a waiver of the regulatory fee due for your station was denied/dismissed. The fee of \$14,400.00 was due within 30 days of notification of the decision, unless additional information could be provided to substantiate your waiver request. As of this date, we have not received either the additional information or your regulatory fee payment.

Enclosed is a "Bill for Collection" for the regulatory fee due. If the regulatory fee payment has already been made or you have submitted additional information prior to this notice, please submit verification documentation so that we can promptly credit your account.

If payment has not been made, please remit your payment to the address listed on the Bill for Collection. If payment is not received within 30 days of this notice, a 25% penalty will be assessed, and interest will begin to accrue until the debt is satisfied. Please return a copy of this letter along with your response.

Sincerely,



Regina W. Dorsey, Chief
Billings & Collections Branch

Enclosure

**Federal Communications Commission
BILL FOR COLLECTION**

FOR INQUIRIES CALL
1-202-418-1995
(Billings and Collections)

Bill Number	Bill Date
BCB96REG03	03/25/96

Please write your bill number on your remittance.

Endor:

Brunson Communications
Barry D. Woods, Esquire
Jones, Waldo, Holbrook & McDonough, P.C.
2300 M Street, NW, Suite 900
Washington, DC 20037

☒ Payable to
Federal Communications Commission
Send a copy of this bill to
☒ Federal Communications Commission
☒ Billings & Collections Branch
☒ 1919 M Street, NW, Rm 452
☒ Washington, DC 20554

Total Amount Due		Due Date
\$14,400.00	Total Amount Due Must Be Received By	04/24/96

Description

our waiver request for FY 1994 regulatory fees has been dismissed.

ease attach a copy of this bill to your payment to ensure proper credit.

Payment Type Code	Quantity	Fee Due	Total Fee Due
			\$14,400.00

Credit Card Payment Information

☐

MASTERCARD

☐

VISA

astercard / Visa Account No.:

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

iration:

--	--

Month

--	--

Year

ereby authorize the FCC to charge my MASTERCARD or VISA for the service(s) / authorization(s) herein described.

RTIZED SIGNATURE

DATE

FOR FILE

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

FEB 12 1996

Barry D. Wood, Esquire
Jones, Waldo, Holbrook & McDonough, P.C.
Suite 900
2300 M St., N.W.
Washington, D.C. 20037

Re: Request for Waiver of Regulatory Fee
Brunson Communications, Inc.
UHF Television Station WGTW

Dear Mr. Wood:

This is in response to your request for a waiver of the Fiscal Year (FY) 1994 mass media regulatory fee filed on behalf of Brunson Communications, Inc. (Brunson), licensee of UHF Television Station WGTW, Burlington, New Jersey.

In a letter ruling dated August 29, 1995, a prior petition filed by Brunson was dismissed because it failed to establish a basis for waiver. Brunson was granted leave to refile its request supported by documentation of its financial hardship. Brunson's current petition is supported by a consolidated balance sheet, a consolidated statement of operations, and a statement of cash flows, all for the year ending December 31, 1993. Brunson asserts that these documents were not available when it filed its original petition and that because of the losses experienced in 1993 it is unable to pay the FY 1994 regulatory fee. Brunson requests that these documents be granted confidential protection and be used only for purposes of internal agency action.

The request for confidentiality is granted and the financial documents submitted in support of Brunson's petition will not be routinely available for public inspection.

In establishing its regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship upon a licensee. Thus, the Commission decided to grant waivers or reductions of its regulatory fees in those instances where a "petitioner presents a compelling case of financial hardship." See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994).


Barry D. Wood, Esquire
Page 2

The documents submitted establish that Brunson had a negative cash flow in 1993, that it has a substantial deficit in retained earnings, and that as a result its shareholders hold a negative interest in the licensee. However, we note that the documents cover only the first three months of operation during FY 1994, they do not establish Brunson's financial condition at the time payment was due, that Brunson's losses for 1993 were exceeded by its unitemized administrative expenses, that Brunson has not identified the financial distributions to its officers and shareholders, as well as salaries and other payouts to owners and officers which could be included in the category of administrative expenses. Moreover, more recent, relevant and complete data which would present a more accurate picture of Brunson's financial condition should now be available. Thus, Brunson has not yet established that it is entitled to a waiver of its regulatory fee obligations because of financial hardship and its petition must be dismissed.

Brunson should file a completed FCC Form 159 (copy enclosed) together with the regulatory fee payments for the above listed radio stations, within 30 days from the date of this letter. The payment may be accompanied by a further request for a waiver of the fees, and for a refund of the fee payment. In the alternative, Brunson may request a further deferral of the fee payment, if documents are submitted establishing that it is entitled to a waiver of the fee requirements.

If you have any questions concerning the payment of the regulatory fee, please call the Chief, Fee Section at (202) 418-1995.

Sincerely,


Marilyn J. McDermott
Associate Managing Director
for Operations

ENCLOSURE

Document
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

AUG 23 1995

Barry D. Wood, Esquire
Jones, Waldo, Holbrook & McDonough, P.C.
2300 M St., N.W.
Washington, D.C. 20037

Re: Request for Waiver of Regulatory Fee
Brunson Communications, Inc.
UHF Television Station WGTW

Dear Mr. Wood:

This is in response to your request for a waiver of the Fiscal Year (FY) 1994 mass media regulatory fee filed on behalf of Brunson Communications, Inc. (Brunson), licensee of UHF Television Station WGTW, Burlington, New Jersey.

The request for a waiver of the regulatory fees for Station WGTW is dismissed. The Commission has held that it would waive the regulatory fees for regulatees that can establish that they lack sufficient funds to pay the fees and maintain service to the public. Regulatees can establish financial need with:

[I]nformation such as a balance sheet and profit and loss statement (audited, if available), a cash flow projection . . . (with an explanation of how calculated), a list of their officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information.

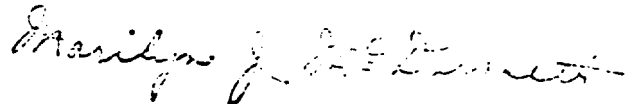
Implementation of Section 9 of the Communications Act, FCC 95-257, ¶ 13, released June 22, 1995. Brunson has not submitted any documentation of financial hardship which would warrant a waiver of the regulatory fees.

In Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5334 ¶ 29 (1994), the Commission did not establish specific standards for waivers or specify what information would be required to support a claim of financial hardship. Thus, the Commission has held that it would afford regulatees, which had not submitted an adequate showing of financial hardship, an opportunity to document their financial condition. FCC 95-257 supra at ¶ 13.

Barry D. Wood, Esquire
Page 2

Accordingly, payment of Brunson's regulatory fee is now due. Within 30 days from the date of this letter, Brunson should file the FCC Form 159 (copy enclosed) together with its FY 1994 regulatory fee of \$14,400. The payment may be accompanied by a request for waiver and refund of the regulatory fee supported by documentation establishing Brunson's financial need. In the alternative, Brunson may file a request for a waiver and further deferment of the FY 1994 regulatory fee. If you have any questions concerning the payment of the regulatory fee, please call the Chief, Fee Section, at (202) 418-1995.

Sincerely,



Marilyn J. McDermett
Associate Managing Director
for Operations

ENCLOSURE

BEFORE THE

Federal Communications Commission

WASHINGTON, D. C. 20554

STAMP &
RETURN

In re Petition of)
)
BRUNSON COMMUNICATIONS, INC. (WGTW))
)
)
For Exemption from FCC Regulatory Fees)
for Fiscal Year 1994 for WGTW (TV),)
Channel 48, Burlington, NJ)

To: The Managing Director

RECEIVED

OCT 2 - 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

PETITION FOR RECONSIDERATION

Brunson Communications, Inc., by its attorneys, hereby petitions the Managing Director for reconsideration of the action, expressed by letter from Marilyn McDermott, Associate Managing Director for Operations, to undersigned counsel for Brunson Communications, Inc., dismissing the company's Petition, filed July 29, 1994, for Exemption from the FCC's Regulatory Fees for fiscal year 1994.

In connection with its original petition, Brunson Communications, Inc. setforth in detail the financial problems it was facing in its struggle to provide an alternative minority owned program outlet in the Delaware Valley. In addition,, it had offered to provide further financial information provided that the Commission would maintain the confidentiality of any financial information to be tendered to the Commission in support of its petition.

The company did not actually receive a response to that request. Mrs. McDermott's letter is silent with respect to the request for confidentiality.

Nevertheless, in support of its petition for reconsideration, it is willing to tender a copy of its 1993 Statement of Income and Expense to the Commission. (That statement was not yet available when the waiver petition was filed.) From a review of this statement, it is clear that in 1993 this company suffered substantial losses, and was not in a financial position to make the Regulatory Fee Payment to the FCC without impairing its service to the public.

For many years, the FCC required financial information from broadcast permittees and licensees in the form of FCC Form 324, the Annual Financial Report.


The Form 324 information was kept strictly confidential within the Commission, and was used only for the purposes of internal agency action. There is no reason why the same courtesy should not be afforded to the attached submission. Such information is of a proprietary nature, and could prove damaging if it fell into the hands of the competitors of Channel 48.

In that regard, it should be noted that Brunson Communication, Inc., is the only television station operating in a major market which is controlled by a black woman. Moreover, as the only Station in the Philadelphia area that has initiated operations in the last five years, the Station is at a competitive disadvantage as to those stations which are owned by communications conglomerates and which have been on the air for decades without interruption.

Therefore, Brunson Communications, Inc. requests that the Commission grant its request for exemption from the Regulatory Fee for fiscal year 1994, and that the financial materials submitted in support thereof be kept confidential by the Commission.

Respectfully submitted,

BRUNSON COMMUNICATIONS INC.


By: Barry D Wood

Jones Waldo Holbrook & McDonough, PC
2300 M Street, N.W., Suite 900
Washington, D.C. 20037
(202) 296-5950
Its Attorneys

Hello Claudette,

Ref: Brunson Communications

I have some concerns about this letter. There seems to be more background, historical and extraneous information in this letter than we are used to seeing.

Has something changed?

These letters used to be "boiler plate" responses to applicants.

Don't these letters become a part of the FCC record?

I am also reluctant to send this one back for edits of even a minor nature due to the fact that the last one I returned was sent back to us unchanged.

As always I am available to discuss as you and/or Regina see fit.

Regards,

Tom Putnam
October 11, 1999

*Claudette—
I believe a complete recitation
of the facts is appropriate in
a case like this that has such
a long history
MHP 12/2/99*